



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/646,553	09/19/2000	Michel Gillet	BEIERDORF 65	1497
7055 7590 02/08/2007 GREENBLUM & BERNSTEIN, P.L.C. 1950 ROLAND CLARKE PLACE RESTON, VA 20191			EXAMINER SIMONE, CATHERINE A	
			ART UNIT 1772	PAPER NUMBER

SHORTENED STATUTORY PERIOD OF RESPONSE	NOTIFICATION DATE	DELIVERY MODE
3 MONTHS	02/08/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 02/08/2007.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

gbpatent@gbpatent.com
pto@gbpatent.com

Office Action Summary	Application No.	Applicant(s)	
	09/646,553	GILLET ET AL.	
	Examiner	Art Unit	
	Catherine Simone	1772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 30-36 and 38-55 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 30-36 and 38-55 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/20/06 has been entered.

Withdrawn Rejections

2. The 35 U.S.C. 112, first paragraph, rejection of claims 31-35 and 37-55 of record in the Final Office Action mailed 8/21/06, Pages 3-4, Paragraph #7 has been withdrawn due to the Applicant's amendment filed 11/20/06.

3. The 35 U.S.C. 112, second paragraph, rejection of claim 42 of record in the Final Office Action mailed 8/21/06, Page 4, Paragraph #9 has been withdrawn due to the Applicant's amendment filed 11/20/06.

4. The 35 U.S.C. 103 rejection of claims 30-34, 36 and 39 over Murayama et al. in view of Van Gompel and further in view of Wu et al. of record in the Final Office Action mailed 8/21/06, Pages 4-6, Paragraph #11 has been withdrawn due to the Applicant's amendment filed 11/20/06.

5. The 35 U.S.C. 103 rejection of claims 35, 37 and 38 over Murayama et al. in view of Van Gompel and in view of Wu et al. and further in view of Haffner et al. of record in the Final

Art Unit: 1772

Office Action mailed 8/21/06, Pages 6-7, Paragraph #12 has been withdrawn due to the Applicant's amendment filed 11/20/06.

6. The 35 U.S.C. 103 rejection of claims 40-46, 48 and 49 over Murayama et al. in view of Van Gompel and further in view of Haffner et al. of record in the Final Office Action mailed 8/21/06, Pages 7-9, Paragraph #13 has been withdrawn due to the Applicant's amendment filed 11/20/06.

7. The 35 U.S.C. 103 rejection of claim 47 over Murayama et al. in view of Van Gompel and in view of Haffner et al. and further in view of Wu et al. of record in the Final Office Action mailed 8/21/06, Pages 9-10, Paragraph #14 has been withdrawn due to the Applicant's amendment filed 11/20/06.

8. The 35 U.S.C. 103 rejection of claims 50-55 over Murayama et al. in view of Van Gompel and in view of Wu et al. and further in view of Haffner et al. of record in the Final Office Action mailed 8/21/06, Pages 10-12, Paragraph #15 has been withdrawn due to the Applicant's amendment filed 11/20/06.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 1772

10. Claims 30, 31, 32 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murayama et al. (US 5,633,070) in view of McFarren (US 3,575,764) and in view of Trounstone et al. (US 3,484,835).

Regarding claims 30 and 39, Murayama et al. disclose an elastic laminate comprising a first layer of an elastic polymer film and a second layer of an elastic textile sheet, built from elastic fibers, and the second layer carries a self-adhesive coating on a side which is opposite to a side which faces the first layer (see col. 8, lines 1-9 and lines 30-34).

However, Murayama et al. fail to disclose the textile sheet being macroembossed and the polymer film being microembossed and a macroembossed effect being transferred from the elastic textile sheet to the microembossed polymer film.

McFarren teaches that it is well known in the art to macroemboss a laminate of a textile sheet and a polymer film, which can be used for surgical dressings (see col. 3, line 15), wherein both the textile sheet and the polymer film of the laminate are macroembossed (see col. 1, lines 40-53) for the purpose of providing a strong and flexible laminate with good drape and a soft hand (see col. 1, lines 34-35).

McFarren and Murayama et al. are analogous, since both teach a laminate used for bandages that includes a textile sheet (nonwoven fabric) and a polymer film (polyolefin film).

Trounstone et al. teach that it is well known in the art to microemboss a polymer film, particularly of a polyolefin type, having moisture barrier characteristics (see col. 1, lines 64-65 and col. 2, lines 50-56 and col. 4, lines 21-24) for the purpose of giving the visual appearance of a plain woven taffeta cloth without the shiny surface effect heretofore usually experienced in known embossed films (see col. 2, lines 15-18).

Trounstine et al. and Murayama et al. are analogous, since both teach a polyolefin film being used to impart waterproofing properties.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have modified the laminate in Murayama et al. to have the textile sheet macroembossed as well as the polymer film as suggested by McFarren in order to provide a strong and flexible laminate with good drape and a soft hand. Furthermore, it would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have modified the polymer film in Murayama et al. to be microembossed as suggested by Trounstine et al. in order to give the visual appearance of a plain woven taffeta fabric without a shiny surface effect.

Regarding claim 31, note in Murayama et al. the polymer film comprises an outer layer and an inner tie layer, the inner tie layer being in direct contact with the second layer (see col. 2, lines 64-65).

Regarding claim 32, note in Murayama et al. that the inner and outer layers can be extruded (see col. 2, line 62). Furthermore, it is to be pointed out that the limitation "coextruded" in claim 32 is a method of production and therefore does not determine the patentability of the product itself. The method of forming the product is not germane to the issue of patentability of the product itself. MPEP 2113.

11. Claims 33, 34 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 30 above, and further in view of Haffner et al. (US 6,045,900).

As shown above, Murayama et al., McFarren and Trounstine et al. teach the elastic laminate as claimed in claim 30. In regards to claims 33 and 34, Murayama et al. also teach the

Art Unit: 1772

textile sheet having an area weight of from 25 to 200 g/m² and from 30 to 100 g/m² (see col. 2, lines 37-38).

However, Murayama et al. fail to teach the polymer film having an area weight of from 15 to 150 g/m² and from 35 to 60 g/m² and including at least 65% of a thermoplastic elastomer.

Haffner et al. teach that it is well known in the art to have a polymer film of an elastic laminate having an area weight of from 15 to 150 g/m² and from 35 to 60 g/m² (see col. 10, line 59-64) and including at least 65% of a thermoplastic elastomer (see col. 9, lines 5-7) for the purpose of providing a breathable barrier laminate which exhibits good breathability and barrier properties (see col. 2, lines 42-45).

Murayama et al. and Haffner et al. are analogous, since both teach an elastic laminate which can be used for bandages.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have modified the polymer film of the elastic laminate in Murayama et al. to have an area weight of from 15 to 150 g/m² and from 35 to 60 g/m² and include at least 65% of a thermoplastic elastomer as suggested by Haffner et al. in order to provide a breathable barrier laminate exhibiting good breathability and barrier properties.

12. Claims 35 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 30 above, and further in view of Morman et al. (US 5,932,497).

As shown above, Murayama et al., McFarren and Trounstone et al. teach the elastic laminate as claimed in claim 30. However, Murayama et al. fail to disclose the polymer film including a copolymer of ethylene and a C₄-C₁₀ α -olefin having a melt index of from 1 to 20

g/(10 min) and a density of from 860 to 900 kg/m³, and the polymer film comprising a copolymer of ethylene and polar comonomers prepared by a metallocene-catalyzed process.

Morman et al. teach that it is well known in the art to have a polymer film of an elastic laminate comprising a copolymer of ethylene and a C₄-C₁₀ α-olefin having a melt index of from 1 to 20 g/(10 min) and a density of from 860 to 900 kg/m³ (see col. 5, lines 43-60) and including a copolymer of ethylene and polar comonomers prepared by a metallocene-catalyzed process (see col. 5, lines 43-51) for the purpose of providing the laminate with a soft outer cover and good elastic and breathability properties (see col. 3, lines 19-20).

Morman et al. and Murayama et al. are analogous, since both teach an elastic laminate which can be used for bandages.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have modified the polymer film of the laminate in Murayama et al. to have a melt index of from 1 to 20 g/(10 min) and a density of from 860 to 900 kg/m³ and include a copolymer of ethylene and a C₄-C₁₀ α-olefin and include a copolymer of ethylene and polar comonomers prepared by a metallocene-catalyzed process as suggested by Morman et al. in order to provide a laminate with a soft outer cover and having good elastic and breathability properties.

13. Claims 40, 41, 43 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murayama et al. (US 5,633,070) in view of McFarren (US 3,575,764) and in view of Morman et al. (US 5,932,497).

Regarding claims 40 and 41, Murayama et al. disclose an elastic laminate comprising a first layer of an elastic polymer film and a second layer of an elastic textile sheet, built from

Art Unit: 1772

elastic fibers, and the second layer carries a self-adhesive coating on a side which is opposite to a side which faces the first layer (see col. 8, lines 1-9 and lines 30-34).

However, Murayama et al. fail to disclose the elastic textile sheet being macroembossed. Additionally, although Murayama et al. disclose the polymer film to include a thermoplastic polyolefin (see col. 2, lines 57-58), Murayama et al. fail to disclose the thermoplastic polyolefin having a melt index of from 1 to 20 g/(10 min) and a density of from 860 to 900 kg/m³ and includes a copolymer of ethylene and a C₄-C₁₀ α-olefin.

McFarren teaches that it is well known in the art to macroemboss a laminate of a textile sheet and a polymer film, which can be used for surgical dressings (see col. 3, line 15), wherein both the textile sheet and the polymer film of the laminate are macroembossed (see col. 1, lines 40-53) for the purpose of providing a strong and flexible laminate with good drape and a soft hand (see col. 1, lines 34-35).

McFarren and Murayama et al. are analogous, since both teach a laminate used for bandages that includes a textile sheet (nonwoven fabric) and a polymer film (polyolefin film).

Morman et al. teach that it is well known in the art to have a polymer film of an elastic laminate comprising a thermoplastic polyolefin having a melt index of from 1 to 20 g/(10 min) and a density of from 860 to 900 kg/m³ and includes a copolymer of ethylene and a C₄-C₁₀ α-olefin (see col. 5, lines 43-60) for the purpose of providing the laminate with a soft outer cover and good elastic and breathability properties (see col. 3, lines 19-20).

Morman et al. and Murayama et al. are analogous, since both teach an elastic laminate which can be used for bandages.

Art Unit: 1772

Therefore, it would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have modified the laminate in Murayama et al. to have the textile sheet macroembossed as well as the polymer film as suggested by McFarren in order to provide a strong and flexible laminate with good drape and a soft hand. Furthermore, it would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have modified the polyolefin film of the laminate in Murayama et al. to have a melt index of from 1 to 20 g/(10 min) and a density of from 860 to 900 kg/m³ and to include a copolymer of ethylene and a C₄-C₁₀ α -olefin as suggested by Morman et al. in order to provide a laminate with a soft outer cover and having good elastic and breathability properties.

Regarding claim 43, note in Murayama et al. the polymer film comprises an outer layer and an inner tie layer, the inner tie layer being in direct contact with the second layer (see col. 2, lines 64-65).

Regarding claim 44, note in Murayama et al. that the inner and outer layers can be extruded (see col. 2, line 62). Furthermore, it is to be pointed out that the limitation "coextruded" in claim 44 is a method of production and therefore does not determine the patentability of the product itself. The method of forming the product is not germane to the issue of patentability of the product itself. MPEP 2113.

14. Claims 42, 45 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 40 above, and further in view of Haffner et al. (US 6,045,900).

As shown above, Murayama et al., McFarren and Morman et al. teach the elastic laminate as claimed in claim 40. In regards to claims 45 and 46, Murayama et al. also teach the textile

Art Unit: 1772

sheet having an area weight of from 25 to 200 g/m² and from 30 to 100 g/m² (see col. 2, lines 37-38).

However, Murayama et al. fail to teach the polymer film having an area weight of from 15 to 150 g/m² and from 35 to 60 g/m² and including at least 65% of a thermoplastic elastomer.

Haffner et al. teach that it is well known in the art to have a polymer film of an elastic laminate having an area weight of from 15 to 150 g/m² and from 35 to 60 g/m² (see col. 10, line 59-64) and including at least 65% of a thermoplastic elastomer (see col. 9, lines 5-7) for the purpose of providing a breathable barrier laminate which exhibits good breathability and barrier properties (see col. 2, lines 42-45).

Murayama et al. and Haffner et al. are analogous, since both teach an elastic laminate which can be used for bandages.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have modified the polymer film of the elastic laminate in Murayama et al. to have an area weight of from 15 to 150 g/m² and from 35 to 60 g/m² and include at least 65% of a thermoplastic elastomer as suggested by Haffner et al. in order to provide a breathable barrier laminate exhibiting good breathability and barrier properties.

15. Claim 47 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 40 above, and further in view of Trounstone et al. (US 3,484,835).

As shown above, Murayama et al., McFarren and Morman et al. teach the elastic laminate as claimed in claim 40. However, Murayama et al. also fail to disclose the polymer film being microembossed.

Art Unit: 1772

Trounstone et al. teach that it is well known in the art to microemboss a polymer film, particularly of a polyolefin type, having moisture barrier characteristics (see col. 1, lines 64-65 and col. 2, lines 50-56 and col. 4, lines 21-24) for the purpose of giving the visual appearance of a plain woven taffeta cloth without the shiny surface effect heretofore usually experienced in known embossed films (see col. 2, lines 15-18).

Trounstone et al. and Murayama et al. are analogous, since both teach a polyolefin film being used to impart waterproofing properties.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have modified the polymer film in Murayama et al. to be microembossed as suggested by Trounstone et al. in order to give the visual appearance of a plain woven taffeta fabric without a shiny surface effect.

16. Claims 48 and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 40 above, and further in view of Wu (US 5,422,172).

As shown above, Murayama et al., McFarren and Morman et al. teach the elastic laminate as claimed in claim 40. However, Murayama et al. also fail to disclose the laminate showing no more than 10% deformation in either the transverse direction or longitudinal direction after elongation by 50% of its original length and after elongation by 100% of its original length.

Wu teaches that it is well known in the art to have an elastic laminate showing no more than 10% deformation in either the transverse direction or longitudinal direction after elongation by 50% of its original length (see col. 11, lines 35-39 and see table 7) for the purpose of providing the laminate with new properties of stretchability and recoverability (see col. 2, lines 6-11).

Wu and Murayama et al. are analogous, since both teach an elastic laminate, which can be used in bandages.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have the elastic laminate in Murayama et al. showing no more than 10% deformation in either the transverse direction or longitudinal direction after elongation by 50% of its original length as suggested by Wu in order to provide the laminate with new properties of stretchability and recoverability.

Furthermore, although Wu teaches a laminate showing no more than 10% deformation in either the transverse direction or longitudinal direction after elongation by 50% of its original length, Wu fails to teach the laminate showing no more than 10% deformation in either the transverse direction or longitudinal direction after elongation by 100% of its original length. However, the permanent deformation would be readily determined through routine experimentation by one having ordinary skill in the art depending on the desired end results. Thus, it would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have the elastic laminate in Murayama et al. showing no more than 10% deformation in either the transverse direction or longitudinal direction after elongation by 100% of its original length, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art in absence of showing unexpected results. *MPEP 2144.05 (II)*.

17. Claims 50, 51, 52 and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murayama et al. (US 5,633,070) in view of McFarren (US 3,575,764) and in view of Trounstein et al. (US 3,484,835) and in view of Morman et al. (US 5,932,497).

Regarding claims 50, 52 and 54, Murayama et al. disclose an elastic laminate comprising a first layer of an elastic polymer film and a second layer of an elastic textile sheet, built from elastic fibers, and the second layer carries a self-adhesive coating on a side which is opposite to a side which faces the first layer (see col. 8, lines 1-9 and lines 30-34) and the polymer film comprises an inner tie layer and an outer layer, the inner layer being in direct contact with the second layer (see col. 2, lines 64-65).

However, Murayama et al. fail to disclose the textile sheet being macroembossed and the polymer film being microembossed and a macroembossed effect being transferred from the elastic textile sheet to the microembossed polymer film. Additionally, although Murayama et al. disclose the polymer film to include a thermoplastic polyolefin (see col. 2, lines 57-58), Murayama et al. fail to disclose the thermoplastic polyolefin having a melt index of from 1 to 20 g/(10 min) and a density of from 860 to 900 kg/m³ and includes a copolymer of ethylene and a C₄-C₁₀ α -olefin.

McFarren teaches that it is well known in the art to macroemboss a laminate of a textile sheet and a polymer film, which can be used for surgical dressings (see col. 3, line 15), wherein both the textile sheet and the polymer film of the laminate are macroembossed (see col. 1, lines 40-53) for the purpose of providing a strong and flexible laminate with good drape and a soft hand (see col. 1, lines 34-35).

McFarren and Murayama et al. are analogous, since both teach a laminate used for bandages that includes a textile sheet (nonwoven fabric) and a polymer film (polyolefin film).

Trounstine et al. teach that it is well known in the art to microemboss a polymer film, particularly of a polyolefin type, having moisture barrier characteristics (see col. 1, lines 64-65).

Art Unit: 1772

and col. 2, lines 50-56 and col. 4, lines 21-24) for the purpose of giving the visual appearance of a plain woven taffeta cloth without the shiny surface effect heretofore usually experienced in known embossed films (see col. 2, lines 15-18).

Trounstone et al. and Murayama et al. are analogous, since both teach a polyolefin film being used to impart waterproofing properties.

Morman et al. teach that it is well known in the art to have a polymer film of an elastic laminate comprising a thermoplastic polyolefin having a melt index of from 1 to 20 g/(10 min) and a density of from 860 to 900 kg/m³ and includes a copolymer of ethylene and a C₄-C₁₀ α -olefin (see col. 5, lines 43-60) for the purpose of providing the laminate with a soft outer cover and good elastic and breathability properties (see col. 3, lines 19-20).

Morman et al. and Murayama et al. are analogous, since both teach an elastic laminate which can be used for bandages.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have modified the laminate in Murayama et al. to have the textile sheet macroembossed as well as the polymer film as suggested by McFarren in order to provide a strong and flexible laminate with good drape and a soft hand. Additionally, it would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have modified the polymer film in Murayama et al. to be microembossed as suggested by Trounstone et al. in order to give the visual appearance of a plain woven taffeta fabric without a shiny surface effect. Furthermore, it would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have modified the inner and outer layers of the polyolefin film of the laminate in Murayama et al. to have a melt index of from 1 to 20 g/(10

Art Unit: 1772

min) and a density of from 860 to 900 kg/m³ and to include a copolymer of ethylene and a C₄-C₁₀ α -olefin as suggested by Morman et al. in order to provide a laminate with a soft outer cover and having good elastic and breathability properties.

Regarding claim 51, note in Murayama et al. that the inner and outer layers can be extruded (see col. 2, line 62). Furthermore, it is to be pointed out that the limitation "coextruded" in claim 32 is a method of production and therefore does not determine the patentability of the product itself. The method of forming the product is not germane to the issue of patentability of the product itself. MPEP 2113.

18. Claim 53 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 50 above, and further in view of Haffner et al. (US 6,045,900).

As shown above, Murayama et al., McFarren, Trounstone et al. and Morman et al. teach the elastic laminate as claimed in claim 50. However, Murayama et al. fail to teach the polymer film including at least 65% of a thermoplastic elastomer.

Haffner et al. teach that it is well known in the art to have a polymer film of an elastic laminate including at least 65% of a thermoplastic elastomer (see col. 9, lines 5-7) for the purpose of providing a breathable barrier laminate which exhibits good breathability and barrier properties (see col. 2, lines 42-45).

Murayama et al. and Haffner et al. are analogous, since both teach an elastic laminate which can be used for bandages.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have modified the polymer film of the elastic laminate in Murayama et al. to include at least 65% of a thermoplastic elastomer as suggested by Haffner et

Art Unit: 1772

al. in order to provide a breathable barrier laminate exhibiting good breathability and barrier properties.

19. Claim 55 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 50 above, and further in view of Wu (US 5,422,172).

As shown above, Murayama et al., McFarren, Trounstein et al. and Morman et al. teach the elastic laminate as claimed in claim 50. However, Murayama et al. also fail to disclose the laminate showing no more than 10% deformation in either the transverse direction or longitudinal direction after elongation by 50% of its original length.

Wu teaches that it is well known in the art to have an elastic laminate showing no more than 10% deformation in either the transverse direction or longitudinal direction after elongation by 50% of its original length (see col. 11, lines 35-39 and see table 7) for the purpose of providing the laminate with new properties of stretchability and recoverability (see col. 2, lines 6-11).

Wu and Murayama et al. are analogous, since both teach an elastic laminate, which can be used in bandages.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have the elastic laminate in Murayama et al. showing no more than 10% deformation in either the transverse direction or longitudinal direction after elongation by 50% of its original length as suggested by Wu in order to provide the laminate with new properties of stretchability and recoverability.

Art Unit: 1772

Response to Arguments

20. Applicant's arguments with respect to claims 30-36 and 38-55 have been considered but are moot in view of the new grounds of rejection.

Conclusion

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Catherine Simone whose telephone number is (571)272-1501.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on (571) 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CAS

Catherine A. Simone
Examiner
Art Unit 1772
February 3, 2007


NASSER AHMAD
PRIMARY EXAMINER 2/5/07